

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

HEATHER SMITH individually and	)	
on behalf of all others similarly	)	
situated,	)	
	)	
Plaintiff,	)	
	)	Case No. 5:23-cv-00559-D
vs.	)	
	)	<u>CLASS ACTION</u>
WHALECO, INC. d/b/a TEMU,	)	
	)	
Defendant.	)	

**MOTION FOR TWO-WEEK EXTENSION OF TIME TO RESPOND TO  
MOTION TO COMPEL ARBITRATION**

Pursuant to Federal Rule of Civil Procedure 6(b)(1) and Local Rule 7.1 (h) & (k), Plaintiff Heather Smith, files this second motion for an extension of time to respond to Defendant Whaleco, Inc. d/b/a TEMU's ("TEMU") Motion to Compel Arbitration and states as follows:

1. This is a putative class action under Oklahoma's newly enacted Telephone Solicitation Act of 2022, Okla. Stat. tit. 15, § 775C.1, *et. seq.* ("the OTSA").
2. Defendant filed a Motion to Compel Arbitration and Brief in Support on July 25, 2023 ("the Motion"). Dtk. 10, 11.
3. On August 14, 2023, Plaintiff sought and received a thirty-day extension of time in which to respond to the Motion making Plaintiff's opposition due on September 14, 2023. Dtk. 17, 18.

4. Plaintiff sought the original extension to allow time to explore potential resolution. Dkt. 17, ¶ 11.
5. Plaintiff seeks the further extension of time to continue its efforts to resolve the matter. Plaintiff seeks a two-week enlargement of time up through and including September 28, 2023.
6. Counsel for Plaintiff attempted to contact both listed counsel for Defendant on September 14, 2023 prior to filing this motion but was unable to reach defense counsel. The undersigned will immediately file a supplement advising the Court of the Defendant's position.
7. A further two-week extension will not affect any other deadlines related to Defendant's Motion to Compel.
8. The requested extension is not for purposes of delay, but is required to appropriately determine whether the parties can resolve the issues or agree to arbitration.
9. Plaintiff has submitted a proposed order on this motion.

Respectfully submitted,

/s/ Kathy R. Neal

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Class*

**CERTIFICATE OF ELECTRONIC SERVICE AND FILING**

I hereby certify that on this 14th day of September 2023, I caused the foregoing instrument to be filed with the Clerk of the Court using the ECF System for filing, with electronic service to be made via CM/ECF to those registered participants of the ECF System.

/s/ Kathy R. Neal

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Kathy R. Neal